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Attorney for Creditors  
Lawrence Wu and Mealea Men

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

In re:

Creditors Lawrence Wu and Mealea Men (“Creditors”) hereby submit the following Memorandum of Points and Authorities in support of their opposition to the Debtor’s Motion to Avoid Lien on real property located at 18394 Montpere Way, Saratoga, CA 95070 (“Real Property”):

1. Creditor holds a recorded judgment against the real property which awarded Creditors money damages against the debtor but also required the Debtor to convey clean title to the real property to the Creditor. See Judgment attached the Declaration of Lawrence Wu. It is Creditor's position that under the judgment, Creditors are the equitable owners of the real

property. The judgment held by Creditors reflects litigation over a real estate purchase contract by which the Debtor sold the property to the Creditors.

2. Debtor believes that the Real Property value is \$795,000.00 as of the date of the petition but offers no evidence of value, other than the debtor's opinion, for which there is no foundation and Creditors so object to such evidence.

3. Creditors believe and thereon allege that there is equity to cover the Debtor's exemption and provide equity for the Creditors. And, as set forth above, Creditors do not believe that the Debtor is entitled to any exemption because he is not the equitable owner of the property.

4. Creditors believe that the value of the Real Property is approximately One Million dollars (\$1,000,000.00) as of the date of the petition in 2010. Creditor purchased the real property from the Debtor in 2004 for approximately \$800,000. And the current estimated value is approximately One Million Five Hundred Sixty Eight Thousand dollars (\$1,568,000) pursuant to a Zillow valuation estimate. See Declaration of Lawrence Wu, filed herewith.

## ISSUES PRESENTED BY THE MOTION

As the Court can tell, this motion presents unusual issues. First, the nature of the judgment held by Creditors requires the Debtor to convey clean title to the real property to them. The exact nature of the judgment is uncertain at present. It appears to take the nature of a quiet title to the property but does not so specify. Creditors request time to brief this issue as the binding nature of the judgment may have an effect on the resolution of the motion. Creditors may be forced to file an adversary proceeding to quiet title in and to the real property.

Second, the valuation of the property is in dispute. Creditors actually bought the real property for \$800,000 in 2004. Creditors also occupied the property for approximately 7 years, from 2002 to 2009. Creditors are actually familiar with the property and arguably, its

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approximate value. However, an appraisal is needed to determine the value as of the Debtor's petition date.

Third, the Debtor is in the process of attempting to remove judicial and statutory liens on the property. The Court has granted some of the lien avoidance motions filed by the Debtor and rejected others. Some of these motions are still pending. Creditors would like to let these motions "play out" so that Creditors can evaluate their position as to the liens on the real property. Creditor believe that some of the liens may have expired and no longer constitute liens against the property. Further, the lien avoidance motions suggest that the Debtor may be attempting to re-finance or sell the real property.

Fourth, Creditors believe that some discovery is needed to determine resolution of the above issues.

Respectfully Submitted,

Law Offices of Mark K. Oto

DATED: October 25, 2017

/s/Mark K. Oto

Mark K. Oto  
Attorney for Creditors  
Lawrence Wu and Mealea Men